



Signed and Filed: January 22, 2024

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Reorganized Debtors.) Date: January 24, 2024
Time: 10:00 AM
☐ Affects PG&E Corporation) Via Video/Teleconference
☐ Affects Pacific Gas and) www.canb.uscourts.gov/calendars
Electric Company)
☒ Affects both Debtors)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)
)
)

**TENTATIVE RULING ON PERA'S MOTION FOR APPOINTMENT AS
LEAD PLAINTIFF AND APPROVAL OF SELECTION OF LEAD COUNSEL**

The court is satisfied by PERA's citation to and reliance upon FRCP 23(g)(3), incorporated by FRBP 7023. Neither Reorganized Debtors nor the RKS Claimants cited that rule. It states that the court "may designate interim class counsel . . .

1 before determining whether to certify the action as a class
2 action." The court will rely on that authority.

3 While the Motion is silent in explaining authority for
4 appointment of "lead plaintiff", it falls back on 11 U.S.C. §
5 105(a). It would seem anomalous to appoint an interim counsel
6 without empowering that counsel's client to act in some
7 consistent manner. For that reason, the Motion will be GRANTED
8 in its entirety.

9 That said, it is important to restate the following.
10 First, the Private Securities Litigation Reform Act does not
11 apply specifically. Second, the court has twice ruled that PERA
12 lacks standing to act on behalf of other claimants who are
13 respondents on any of the other Reorganized Debtors' omnibus
14 claims objections.

15 But it is also worth repeating that the invocation of the
16 Rule 23 class action procedures in parallel with the very
17 complicated and well-established claims review, objection and
18 allowance process in this enormous case is virtually
19 unprecedented. For that reason, the court needs further
20 assistance on the question of just what PERA and its counsel
21 expect to be able to do as "interim" class representatives,
22 consistent with PERA's commitment that it does not intend "to
23 improperly intercede in the ADR Procedures" (Dkt. 14281, at
24 5:25-6:1). That statement seems at odds with the accompanying
25 statement at footnote 8 that PERA "reserves all rights to object
26 to the Reorganized Debtors' omnibus objections."

27 To that end, counsel should be prepared to focus their
28 comments at the hearing on January 24, 2024, not on the

1 semantics of whether or how PERA could be "lead plaintiff" and
2 its counsel as "lead counsel" when there is no adversary
3 proceeding, but rather on the substance of whether and what role
4 that PERA'S counsel will have going forward before class
5 certification in the administration of this two-track process.
6 At the same time, counsel should not waste time reminding the
7 court again that it has not made a final determination as to the
8 basic elements of FRCP 23(a), none of which appear to be
9 relevant to the question currently presented.

10 At that hearing, each side will have twenty minutes for
11 oral argument. The court expects counsel for PERA to argue
12 first and to reserve a portion of the allotted time, and expects
13 counsel for the Reorganized Debtors and the RKS Claimants to
14 meet and confer to decide how to divide their time.

15 ****END OF TENTATIVE RULING****
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COURT SERVICE LIST

ECF Recipients